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ATTORNEY WORK PRODUCT

February 15, 1991

MEMORANDUM

Re: Meeting with NIOSH Scientists

The National Institute for Occupational Safety and Health (NIOSH) is in the process of drafting a Current Intelligence Bulletin (CIB) concerning ETS. According to J. Donald Millar, Director of NIOSH, CIBs are designed to "disseminate new scientific information about occupational hazards." CIBs may also "draw attention to a previously unrecognized hazard, report new data on a known hazard or disseminate information on hazard control." They are "distributed to representatives of academia, industry, organized labor, public health agencies, and public interest groups as well as to Federal agencies responsible for ensuring the safety and health of workers."<sup>1/</sup>

We contacted Dr. Niemeier, head of the Standards Division of NIOSH in Cincinnati and requested a copy of the draft CIB on ETS. He was unwilling to make a draft available, but did agree to meet with us for two hours to enable us to present our viewpoint on the ETS issue. The meeting took place on February 4, 1991, with the following NIOSH officials

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<sup>1/</sup> Foreword to NIOSH Current Intelligence Bulletin 51, "Carcinogenic Effects of Exposure to Propylene Oxide" (July 13, 1989).

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present: Dr. Niemeier, Dr. L. Stayner, Dr. B. Hardin, Dr. R. Zumwalde, and Mr. D. Votaw. Dr. Philip Witorsch, Dr. Maurice Le Vois, Dr. Christopher Proctor, and Michael Buckley represented the Institute. This memorandum summarizes the meeting.

At the beginning of the meeting NIOSH made clear to us that the content, and particularly the conclusions, of the CIB were not to be discussed. Dr. Niemeier would go no further than to state that he expected the CIB to be completed for its first defense to Dr. Millar in one to two months and to suggest a timetable for release of the document of between two and one-half to four months.

We then presented the industry's view of the ETS primary literature, covering aspects of lung cancer epidemiology (LeVois), heart disease epidemiology (LeVois & Witorsch) and exposure considerations (Proctor). We emphasized that the epidemiology is weak and inconclusive and that it is based on spousal exposure to ETS, which must be expected to be higher than any exposure that would normally occur in the workplace.

NIOSH appeared to respond relatively positively to our analysis of the literature. From their responses, it may be surmised that NIOSH will not attempt in their CIB to quantify the risk of lung cancer and heart disease. They apparently feel that the data relating to workplace smoking is too sparse to do otherwise. Instead, they will focus on whether it is plausible that exposure to ETS is associated with "some"

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risk of disease. Most likely, they will conclude that there is an association between ETS and lung cancer, and possibly an association between ETS and heart disease.

NIOSH seemed to agree that home exposure to ETS would be higher than workplace exposure. They did not seem overly concerned with exposure in the office workplace; they gave the impression that they were focusing instead on occupations with possibly higher than average exposures (citing bartenders as an example of workers that might fall into this category).

Dr. Niemeier asked Dr. Proctor where in the workplace he thought ETS would be the most problematic. Dr. Proctor responded that employees working in buildings that complied with ASHRAE standards would not be affected. Dr. Hardin of NIOSH then indicated that NIOSH had reviewed the ASHRAE standards (20 cfm in smoking and non-smoking locations) and found them to be useful.

Dr. Niemeier stated that the CIB would recommend that additional research be conducted on ETS and the workplace. We suggested further exposure work, and mentioned that the American Cancer Society study already has data, not published, on ETS and heart disease. Buckley pointed out that the EPA had prepared lists of required research that they subsequently ignored in their ETS risk assessment, instead resorting to unfounded assumptions. Niemeier joked that we

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should not expect consistency between government agencies, and agreed that it would be a good idea for NIOSH to look back through the EPA lists.

Despite NIOSH's refusal to produce or even discuss the contents of the CIB, the atmosphere of the meeting remained friendly. Dr. Niemeier could even be described as jovial. The meeting adjourned with NIOSH inviting us to send further information to them if we wished to do so.

M. T. Buckley  
C. J. Proctor

Attachments: Meeting Sign-in Sheet  
Lists of Documents Provided to NIOSH

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